IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

WP(C).No. 19374 of 2007(F)

PETITIONERS:

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1. V.P.CHERIYA YOOSUF MASTER,
S/O.VALIYAPEEDIKAKKAL KUNHI MARAKKAR,
ARAKKUPARAMBA, PERINTHALMANNA TALUK,
MALAPPURAM DIST.

2. MUHAMMED YASIR,
S/O.CHERIA YOOSUF MASTER,
ARAKKUPARAMBA, PERINTHALMANNA TALUK,
MALAPPURAM DIST.

BY ADV. SRI.T.SETHUMADHAVAN
SRI.PUSHPARAJAN KODOTH

RESPONDENTS:

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1. THE TAHSILDAR,
PERINTHALMANNA, MALAPPURAM DISTRICT.

2. REVENUE DIVISIONAL OFFICER,
PERINTHALMANNA, MALAPPURAM DISTRICT.

3. THE DISTRICT COLLECTOR,
MALAPPURAM.

*4. THE SECRETARY
THAZHEKODE GRAMA PANCHAYAT
PERINTHALMANNA TALUK.

ADDL. RESPONDENT NO.4 IS IMPLEADED AS PER ORDER DT.4.10.07 IN I.A.NO.9092/07

BY GOVT. PLEADER SRI. C.K. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

W.P.(C). NO. 19374 OF 2007

Dated this the 4th day of October, 2007

J U D G M E N T

The proceedings initiated against the 1st petitioner under the Kerala Building Tax Act is under challenge. The 1st petitioner had constructed a building in his land and the same was assessed. It is admitted that thereafter he had partitioned the property among his children.

2. According to him, the children have constructed separate buildings in their respective shares, which were assigned with separate building numbers by the additional 4th respondent Panchayat. However, the whole building was reassessed as one unit as per Ext.P4 and the liability of tax was saddled on the 1st petitioner. He filed an appeal which was rejected by Ext.P7.

3. In so far as Ext.P3 order in appeal is concerned, his complaint is that the assessing authority had in the meanwhile got promoted and was occupying the office of the appellate authority and it is the same officer who heard the appeal and rejected the same by Ext.P7 order. This complaint was not raised before the appellate

authority or the revisional authority, which confirmed Ext.P7 in Ext.P10 order. In Ext.P10 order reference has been made to Ext.P9 sketch and a finding of fact has been entered into that it is one building with one access and one kitchen. This finding of fact cannot upset a proceeding under Article 226 of the Constitution of India.

4. Even otherwise on a perusal of Ext.P9 sketch, I am inclined to agree with the finding of the appellate and revisional authorities. In so far as the grievance of the 1st petitioner is concerned, when the revisional authority has decided the matter, the same can be urged by the petitioner before the revisional authority. Since the petitioner did not use that opportunity he cannot now be allowed to urge the same. In the result, Exts.P4, P7 and P10 are only to be upheld and I do so.

The writ petition fails and it is accordingly dismissed.

ANTONY DOMINIC, JUDGE

vps